

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEILEE FANT, et al.

Plaintiffs,

v.

THE CITY OF FERGUSON,

Defendant.

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Case No. 4:15-CV-00253-AGF

SUGGESTION OF DEATH AND MOTION TO SUBSTITUTE PARTY

Pursuant to Federal Rule of Civil Procedure 25(a), Counsel for Plaintiffs file a suggestion upon the record of the death of Plaintiff Keilee Fant and respectfully request that Michael Gunn, personal representative for the Estate of Keilee Fant, be substituted in place of Keilee Fant as Plaintiff in this action. Counsel states the following in support of this motion:

1. Plaintiff Keilee Fant passed away on June 23, 2023. A certification of death is attached as Exhibit A.
2. Under Rule 25(a)(1), a court may order substitution of the proper party if a party dies and the claim is not extinguished.
3. Because federal law does not address survival of § 1983 actions upon a plaintiff's death, state statutes generally govern claim survival. *Andrews v. Neer*, 253 F.3d 1052, 1056 (8th Cir. 2001) (citing *Robertson v. Wegmann*, 436 U.S. 584, 588–90 (1978)).
4. Missouri's survival statute states that: "Causes of action for personal injuries, other than those resulting in death, whether such injuries be to the health or to the person of the injured party, shall not abate by reason of his death, nor by reason of the death of the person against whom such cause of action shall have accrued; but in case of the death of either or both

such parties, such cause of action shall survive to the personal representative of such injured party, and against the person, receiver or corporation liable for such injuries and his legal representatives, and the liability and the measure of damages shall be the same as if such death or deaths had not occurred.” Mo. Rev. Stat. § 537.020(1).

5. Ms. Fant filed this action on February 7, 2015, over eight years prior to her death. *See* ECF No. 1. Accordingly, her claims against the Defendant in this matter have not been extinguished and survive to her personal representative. *See Cameron*, 901 S.W.2d at 174; *see also Andrews*, 253 F.3d at 1061 n.2.

6. As of November 8, 2023, Michael Gunn has been appointed personal representative of the estate of Keilee Fant. *See* Letters of Administration filed in the Probate Division of the Circuit Court of the City of St. Louis, Missouri (*In re: Keilee Fant Deceased*, Estate No. 2322-PR00582), attached as Exhibit B.

7. Plaintiffs request that Mr. Gunn, personal representative of the Estate of Keilee Fant, be substituted in place of Ms. Fant as Plaintiff in this action and that the title of this action be amended accordingly.

8. Motions to substitute a proper party should be freely granted. *In re Baycol Prod. Litig.*, 616 F.3d 778, 783 (8th Cir. 2010) (citing the 1963 advisory committee note regarding Fed. R. Civ. P. 25).

9. This request is not made for any improper purposes and is in the interest of justice.

10. Counsel for Defendant have been apprised of, and consent to this motion for substitution.

WHEREFORE, Counsel for Plaintiffs request this Court GRANT the motion to substitute as Plaintiff Michael Gunn, personal representative of the estate of Keilee Fant.

Dated: November 9, 2023

Respectfully submitted,

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